

**ASSEMBLY BILL**

**No. 370**

**Introduced by Assembly Member La Suer**

February 14, 2003

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An act to amend Section 8814.5 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 370, as introduced, La Suer. Adoption: consent revocation waivers.

Existing law provides that, in an independent adoption, after a consent to an adoption is signed by a birth parent, the birth parent signing the adoption has 30 days to revoke consent, as specified, or to sign a waiver of his or her right to revoke consent. In certain cases, after revoking consent, a written notarized statement reinstating the original consent may be signed and delivered, as specified. In the alternative, the birth parent may sign a waiver of the right to revoke consent in the presence of a representative of the State Department of Social Services or a delegated county adoption agency. If neither a representative of the State Department of Social Services nor a representative of a delegated county adoption agency is reasonably available, as defined, the waiver may be signed in the presence of a judicial officer of a court of record. Existing law provides that the waiver may not be signed until an interview has been completed by the department or delegated county adoption agency unless the waiver is signed in the presence of a judicial officer. In that case, the judicial officer is required to conduct the interview. Existing law also requires the department, the delegated county adoption agency, or the court to interview any birth parent

requesting to be interviewed, within 10 working days of a request, as specified.

This bill would require the birth parent to sign a waiver of the right to revoke consent in the presence of the adoption service provider, rather than the department or the delegated county adoption agency, at the same time the adoption placement agreement is signed. The bill would also delete the provisions described above requiring the department, the delegated county adoption agency, and judicial officers to interview birth parents in connection with these waivers. The bill would instead provide that the waiver may not be signed until an interview has been completed by an adoption service provider.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1.   Section 8814.5 of the Family Code is amended  
2     to read:  
3     8814.5.   (a) After a consent to the adoption is signed by the  
4     birth parent or parents pursuant to Section 8801.3 or 8814, the  
5     birth parent or parents signing the consent shall have 30 days to  
6     take one of the following actions:  
7     (1) Sign and deliver to the department or delegated county  
8     adoption agency a written statement revoking the consent and  
9     requesting the child to be returned to the birth parent or parents.  
10    After revoking consent, in cases ~~where~~ *in which* the birth parent  
11    or parents have not regained custody, or the birth parent or parents  
12    have failed to make efforts to exercise their rights under  
13    subdivision (b) of Section 8815, a written notarized statement  
14    reinstating the original consent may be signed and delivered to the  
15    department or delegated county adoption agency, in which case the  
16    revocation of consent shall be void and a new 30-day period shall  
17    commence. After revoking consent, in cases in which the birth  
18    parent or parents have regained custody, upon the delivery of a  
19    written notarized statement reinstating the original consent to the  
20    department or delegated county adoption agency, the revocation  
21    of consent shall be void and a new 30-day period shall commence.  
22    The birth mother shall be informed of the operational timelines  
23    associated with this section at the time of signing of the statement  
24    reinstating the original consent.



(2) (A) Sign a waiver of the right to revoke consent on a form prescribed by the department in the presence of ~~a representative of the department or delegated county adoption agency~~ *the adoption service provider at the same time the adoption placement agreement is signed*. If ~~neither a representative of the department nor a representative of a delegated county adoption agency is reasonably available, the waiver of the right to revoke consent may be signed in the presence of a judicial officer of a court of record if the birth parent is represented by independent legal counsel.~~ “Reasonably available” means that a representative from either the department or the delegated county adoption agency is available to accept the signing of the waiver within 10 days and is within 100 miles of the location of the birth mother.

(B) An adoption service provider may assist the birth parent or parents in any activity ~~where in which~~ the primary purpose of that activity is to facilitate the signing of the waiver ~~with the department, a delegated county agency, or a judicial officer.~~ The ~~adoption service provider or another~~ *Another* person designated by the birth parent or parents may also be present at any interview conducted pursuant to this section to provide support to the birth parent or parents.

(C) The waiver of the right to revoke consent may not be signed until an interview has been completed by ~~the department or delegated county adoption agency unless the waiver of the right to revoke consent is signed in the presence of a judicial officer of a court of record as specified in this section, in which case the interview and the witnessing of the signing of the waiver shall be conducted by the judicial officer. Within 10 working days of a request made after the department, the delegated county adoption agency, or the court has received a copy of the petition for the adoption and the names and addresses of the persons to be interviewed, the department, the delegated county adoption agency, or the court shall interview, at the department or agency office or the court, any birth parent requesting to be interviewed~~ *an adoption service provider*. However, the interview, and the witnessing of the signing of a waiver of the right to revoke consent of a birth parent residing outside of California or located outside of California for an extended period of time unrelated to the adoption may be conducted in the state ~~where in which~~ the birth parent is located, by any of the following:

- 1 (i) A representative of a public adoption agency in that state.
- 2 (ii) A judicial officer in that state where the birth parent is
- 3 represented by independent legal counsel.
- 4 (iii) An adoption service provider.
- 5 (3) Allow the consent to become a permanent consent on the
- 6 31st day after signing.
- 7 (b) The consent may not be revoked after a waiver of the right
- 8 to revoke consent has been signed or after 30 days, beginning on
- 9 the date the consent was signed or as provided in paragraph (1) of
- 10 subdivision (a), whichever occurs first.

